

TAXATION (CITY SALES TAX):
BALLOTS:
ELECTIONS:
CITY ELECTIONS:

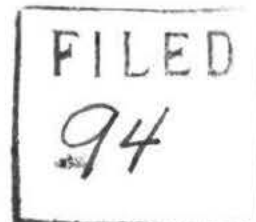
Section 8.120 of the Comprehensive Election Act of 1977 (SSHB No. 101, First Regular Session, 79th General Assembly) provides for the form of the ballot submission with respect

to city sales tax elections notwithstanding the provisions of Section 94.510, RSMo, as amended in 1977.

OPINION NO. 94

April 17, 1978

Honorable William Stoner
State Representative, District 147
House Post Office
State Capitol Building
Jefferson City, Missouri 65101



Dear Representative Stoner:

This opinion is in response to your question asking:

"Does Section 8.120 of the Comprehensive Election Act of 1977 repeal by implication that portion of Section 94.510 RSMo. with respect to language required for a ballot for a City Sales Tax Election?"

You also state:

"The City of Springfield, Missouri, proposes to submit a Sales Tax Election to the voters in the near future. I am informed by the City Attorney that in the preparation of the ballot for the City Clerk of the City of Springfield, Missouri, that a question arose concerning an apparent conflict between Sec. 8.120 of the Comprehensive Election Act of 1977 and Section 94.510 RSMo."

Section 94.510 as amended in 1977, provides that the ballot of submission shall contain, but not be limited to, the following language:

- For the sales tax
- Against the sales tax

The 1977 amendment did not change the language in question.

Honorable William Stoner

Section 8.120 of SSB No. 101, First Regular Session, 79th General Assembly (which is now numbered Section 115.245, RSMo) provides:

"1. All questions printed on the official ballot shall be phrased in such a manner that the required response is a 'YES' or a 'NO'. Immediately beside or below each question, a 'YES' and a 'NO' shall be printed, immediately followed by a square, the sides of which are not less than one-fourth inch in length. Beneath the question and the 'YES' and 'NO' the following instruction shall be printed: 'If you are in favor of the question, place an X in the box opposite "YES". If you are opposed to the question, place an X in the box opposite "NO".'

"2. When the secretary of state certifies a question to be submitted to a vote of the people, he shall include in his certification the exact wording of the question and the instructions. The wording certified by the secretary of state shall be printed on the official ballot, and no other wording shall be used to submit the question."

Likewise, Section 1.025(22) (now numbered Section 115.013) provides:

"(22) 'Question' means any measure on the ballot which can be voted 'YES' or 'NO';"

Section 8.120 is somewhat similar to the provisions previously contained in Section 111.362 of the Laws of 1973 which section was repealed by the Comprehensive Election Act.

We note that House Bill No. 971, Second Regular Session, 79th General Assembly, which has not as yet been passed, will if enacted specifically repeal and re-enact Section 94.510 to eliminate the present language, above noted, and will if enacted insert in lieu thereof the language:

"The question shall be submitted in substantially the following form:

Shall there be a city sales tax?"

Honorable William Stoner

In our Opinion No. 228, dated November 14, 1977, to McCuskey, this office concluded that the Comprehensive Election Act repealed by implication contrary provisions of Section 247.180, RSMo Supp. 1976, relating to water district elections and Section 190.055, RSMo Supp. 1975, relating to ambulance district elections. That opinion is enclosed and is self-explanatory.

For the reasons stated in that opinion and in light of the legislative history of the provisions you question, we conclude that the provisions of the Comprehensive Election Act govern and the ballot should be worded to conform to the provisions of Section 8.120.

CONCLUSION

It is the opinion of this office that Section 8.120 of the Comprehensive Election Act of 1977 (SSHB No. 101, First Regular Session, 79th General Assembly) provides for the form of the ballot submission with respect to city sales tax elections notwithstanding the provisions of Section 94.510, RSMo, as amended in 1977.

The foregoing opinion, which I hereby approve, was prepared by my assistant, John C. Klaffenbach.

Very truly yours,



JOHN ASHCROFT
Attorney General

Enclosure

Op. No. 228, 11-14-77, McCuskey